



CITY OF CONCORD

New Hampshire's Main Street™

City Solicitor's Office

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REPORT TO MAYOR AND THE CITY COUNCIL

FROM: James Kennedy, City Solicitor
DATE: August 14, 2017
SUBJECT: Amending Article 1-3-9, Ward Lines

Recommendation:

Accept this report and set the attached ordinance for a public hearing on September 11, 2017, which amends the Code of Ordinances, Title 1, General Code; Chapter 1, Government Organization, Article 1-3-9, Ward Lines.

Discussion

At the January 10, 2012 election, the City of Concord voters approved that, to the extent that the City Council determines that redistricting is necessary, Concord's Ward Lines shall be changed through ordinance amendment. On May 14, 2012, the City Council transferred the City's Ward Lines into the City's Code of Ordinances under Article 1-3-9. The proposed ordinance amends Article 1-3-9.

In each election, Concord's City Clerk is the City's Chief Election Officer and is charged with selecting a suitable polling place for each ward in the City. In her selection, the City Clerk endeavors to locate polling places which meet all applicable state and federal law requirements. In accordance with RSA 39:1-b, during past election cycles, the City Clerk identified the Boys and Girls Club, located at 55 Bradley Street, as the appropriate polling place for Ward 4. The City Clerk also identified the Green Street Community Center, located at 39 Green Street, within the City Hall complex, as the appropriate polling place for Ward 5. RSA 39:1-b authorizes the City Clerk to hold an election outside of the geographical boundaries of the ward if the ward does not have a sufficient facility to hold the election.¹

¹ While RSA 39:1-b employs the term "town," it is well-settled in New Hampshire that the term "town" shall include wards in cities. RSA 652:16. Additionally, it is understood that the term "meeting" is inclusive of election.

The proposed ordinance makes minor changes to the Ward 3, 4, and 5 ward lines to incorporate the Boys and Girls Club into Ward 4 and the Green Street Community Center into Ward 5. This change is necessary because RSA 44:7 provides that “[a]ll meetings of the voters for the election of county, state, or United States officers, who are voted for by the people, shall be held in their respective wards at the time legally appointed for those elections respectively.” While it was appropriate for the City Clerk to employ RSA 39:1-b to use the Boys and Girls Club and the Green Street Community Center, which are located outside of their respective wards, the Clerk has determined that these locations should be established as the usual polling places for the respective wards.

The proposed ward line change to Wards 3 and 4 does not change any voters from their respective Wards. Instead, the change merely incorporates City-owned property, inclusive of the Boys and Girls Club, from Ward 3 to Ward 4. The proposed change to Wards 4 and 5 incorporates seven (7) houses along the north side of School Street and the east side of North Spring Street and the City Hall complex from Ward 4 to Ward 5. Of these seven houses, there are a total of eighteen (18) voters shifting from Ward 4 to Ward 5. According to the 2010 decennial census, there is a total of 4,137 inhabitants in Ward 4 and a total of 4,077 inhabitants in Ward 5. This does not have any significant impact on the deviation between the two wards.²

Further, RSA 44:2 provides that “provisions of statutes, now made or hereafter enacted relating to towns, shall be understood to apply to cities.”

² The New Hampshire Supreme Court has explained that districts must be “as equal as may be in population.” *Below v. Gardner*, 148 N.H. 1 (2002). The Court observed that “the overriding objective of redistricting must be substantial equality of population among the various legislative districts, so that the vote of any citizen is approximately equal in weight to that of any other citizen in the State.” *Id.*